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7 The Honorable John H. Chun
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

13 STATE OF WASHINGTON, *et al.*,

No. 2:25-cv-00602-JHC

14 Plaintiffs,

BRIEF OF *AMICI CURIAE*
REPUBLICAN PARTY OF ARIZONA
AND RITE PAC IN SUPPORT OF
DEFENDANTS

15 v.

16 DONALD TRUMP, *et al.*,

17 Defendants.

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27 BRIEF OF *AMICI CURIAE*
REPUBLICAN PARTY OF
ARIZONA AND RITE PAC IN
SUPPORT OF DEFENDANTS

ROBERT MCGUIRE LAW FIRM
600 1st Ave. Ste. 330 PMB 86685
Seattle, WA 98104
Tel/Fax: 253-267-8530

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Seattle, WA 98104
Tel/Fax: 253-267-8530

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ROBERT MCGUIRE LAW FIRM
600 1st Ave. Ste. 330 PMB 86685
Seattle, WA 98104
Tel/Fax: 253-267-8530

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ROBERT MCGUIRE LAW FIRM
 600 1st Ave. Ste. 330 PMB 86685
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Tel/Fax: 253-267-8530

-v-

The Republican Party of Arizona (“RPAZ”) and RITE PAC submit this brief as *amici curiae* to underscore two points. First, irrespective of whether or to what extent the President can prompt the Election Assistance Commission (“EAC”) to act, the National Voter Registration Act of 1993, 52 U.S.C. § 20501, *et seq.* (“NVRA”), certainly **permits** the EAC (and the respective States) to require documentary proof of citizenship as a prerequisite to registering to vote in federal elections. Second, the President’s directive that federal voter registration agencies “shall assess citizenship prior to providing a Federal voter registration form to enrollees of public assistance programs” is consistent with and implements Congress’ express objective of confining the franchise to United States citizens and prohibiting the registration of non-citizens.

INTRODUCTION

On March 25, 2025, the President issued an executive order providing that, *inter alia*, the EAC must within 30 days “take appropriate action to require, in its national mail voter registration form issued under 52 U.S.C. 20508 . . . documentary proof of United States citizenship, consistent with 52 U.S.C. 20508(b)(3).” Exec. Order No. 14248, *Preserving and Protecting the Integrity of American Elections*, 90 Fed. Reg. 14005 (Mar. 25, 2025) (hereafter, the “Executive Order”). The Executive Order accordingly engendered the question—presented by the Plaintiffs here—of whether and in what manner the President may initiate or mandate EAC action.¹ The Plaintiffs, however, then take it a step further, and seek to bootstrap a ruling concerning the scope of the President’s power into a preemptive judicial abrogation of the EAC’s own preexisting statutory authority. *See* Doc. 1 (Claim 7); Doc. 37 at 10-11. The Court should resist that invitation. Even assuming *arguendo* that the President cannot order the EAC to promulgate a documentary proof of citizenship requirement, the NVRA empowers the EAC—and, in the case of state-specific voter registration forms used to register voters in federal elections, the individual States—to do so upon

¹ While the RPAZ believes there are sound arguments in support of the Defendants’ conception of the President’s powers relative to the EAC, this brief does not address that issue.

determining that it is “necessary to enable the appropriate State election official to assess the eligibility of the applicant and to administer voter registration and other parts of the election process.” 52 U.S.C. § 20508(b)(1). Far from foreclosing that prerogative, the cases cited by the Plaintiffs—most notably, the U.S. Supreme Court’s opinion in *Arizona v. Inter Tribal Council of Arizona, Inc.* (“ICTA”), 570 U.S. 1 (2013)—recognize and preserve it.

Further, the Executive Order's directive that federal voter registration agencies attempt to screen-out known non-citizens from voter registration opportunities effectuates the congressionally ordained (and common sense) imperatives of forestalling illegal registrations by ineligible individuals.

INTEREST OF THE *AMICI CURIAE*

The RPAZ is a statewide political party committee under Arizona law, and the organizing body of Arizona electors who are registered members of the Republican Party, the largest political party in Arizona. The RPAZ sponsors and engages in large-scale voter registration efforts, and promotes the election of Republican candidates in Arizona. The Plaintiffs' claims in this litigation intersect with at least two foundational interests of the RPAZ. First, like all political party organizations, the RPAZ is intrinsically affected by the structuring of "competitive environment"—*i.e.*, the legal and regulatory framework within which the electoral system operates. *See Mecinas v. Hobbs*, 30 F.4th 890, 898 (9th Cir. 2022); *Shays v. Fed. Election Comm'n.*, 414 F.3d 76, 85 (D.C. Cir. 2005); *N.C. Green Party v. N.C. State Bd. of Elections*, 619 F. Supp. 3d 547, 562 (E.D.N.C. 2022) (recognizing political parties' "interests in a competitive playing field for their candidates and conserving party resources").

Second, the RPAZ is unique among virtually all state political party organizations because Arizona has for more than twenty years maintained a documentary proof of citizenship requirement for applicants using its state voter registration form. As discussed in detail below, Plaintiffs' misconstruction of NVRA provisions addressing the promulgation and amending of

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1 registration forms used to register voters in federal elections would, if adopted, conflict with U.S.
 2 Supreme Court precedents and orders that undergird Arizona's voter registration regime.
 3

4 Amicus RITE PAC is a tax-exempt political organization organized and operated pursuant
 5 to section 527 of the Internal Revenue Code of 1986, whose mission is to protect the rule of law
 6 in elections throughout the United States. RITE PAC supports laws and policies that promote
 7 secure elections and enhance voter confidence in the electoral process. Pursuant to this mission,
 8 RITE PAC routinely files briefs in state and federal courts across the country on important issues
 9 regarding the qualifications for voting, including citizenship. RITE PAC has a very direct interest
 10 in the outcome of the litigation pending before the Court as it relates to noncitizen voting, an
 11 unlawful practice striking at RITE PAC's core organizational mission.

12 Although no court rule appears to directly control the filing of *amicus curiae* briefs in this
 13 Court, the RPAZ and RITE PAC, consistent with F.R.A.P. 29(a)(4)(E), disclose that no party or
 14 party's counsel authored this brief in whole or in part or contributed money that was intended to
 15 fund preparing or submitting the brief. RITE PAC provided funding for the preparation and
 16 submission of this brief.

17 ARGUMENT

18 I. The NVRA Empowers The EAC To Modify The Federal Form To Add A Documentary Proof Of Citizenship Requirement

19 The NVRA "erected a complex superstructure of federal regulation atop state voter-
 20 registration systems." *ICTA*, 570 U.S. at 5. Plaintiffs employ that complexity to obscure key
 21 distinctions embedded in the statute that secure the EAC's flexibility to adapt and evolve voter
 22 registration procedures. To discern the infirmity in the Plaintiffs' contention that the NVRA
 23 somehow affirmatively prohibits documentary proof of citizenship as a condition of registering to
 24 vote in federal elections, it is useful to unpack the interplay between the various provisions
 25 governing how individuals may register to vote and who determines the prerequisites for doing so.
 26 The litigation that ensued from Arizona's enactment of its own proof-of-citizenship mandate

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 600 1st Ave. Ste. 330 PMB 86685
 Seattle, WA 98104
 Tel/Fax: 253-267-8530

1 illuminated in more concrete terms the EAC’s ability to supplement the Federal Form’s existing
 2 affirmation of citizenship with additional safeguards.
 3

4 **A. Overview of the NVRA’s Mail Registration Form Provisions**

5 To facilitate Congress’ stated objective of “enhanc[ing] the participation of eligible citizens
 6 as voters in elections for Federal office,” 52 U.S.C. § 20501(b)(3), the NVRA provided for the
 7 creation of a mail registration form. There are two general species of this registration form. The
 8 first is the so-called “Federal Form” promulgated by the EAC, which the States must “accept and
 9 use” to register voters in federal elections. *See* 52 U.S.C. §§ 20505(a)(1), 20508(a)(2). Section 9
 10 of the NVRA² (which corresponds to what is now 52 U.S.C. § 20508) enumerates certain basic
 11 informational fields or averments that the Federal Form “shall include”—among them, a sworn
 12 affirmation of citizenship. Above and beyond this baseline, the EAC may incorporate into the
 13 Federal Form any additional informational elements that are “necessary to enable the appropriate
 14 State election official to assess the eligibility of the applicant and to administer voter registration
 15 and other parts of the election process.” 52 U.S.C. § 20508(b)(1).

16 The NVRA also countenances a second variant of a mail registration form—to wit, that
 17 “develop[ed] and use[d]” by a State. 52 U.S.C. § 20505(a)(2). A so-called State Form is NVRA-
 18 compliant if it “meets all of the criteria stated in [Section 9(b)].” *Id.* In other words, the same
 19 general rubric in Section 9(b) governs the permissible parameters of both the Federal Form and
 20 the State Forms, but their specific content is determined by different actors—*i.e.*, the EAC and
 21 state legislatures, respectively. The NVRA thus tempers a nationwide voter registration regime
 22 with deference to federalism and regulatory latitude to adapt both the Federal Form and State
 23 Forms to future policy needs. Put another way, “States retain the flexibility to design and use their
 24 own registration forms, but the Federal Form provides a backstop.” *ICTA*, 570 U.S. at 12.

25
 26 ² See Pub. L. 103-31, 107 Stat. 77.
 27

1 **B. Courts Have Affirmed That NVRA Section 9(b) Permits the EAC and States
2 to Incorporate Proof-of-Citizenship Mandates into Voter Registration Forms**

3 Nearly two decades of litigation precipitated by Arizona’s first-in-the-nation documentary
4 proof of citizenship law crystallized the States’ and the EAC’s ability to amend and enhance their
5 voter registration forms. And the resulting precedents discredit the Plaintiffs’ current effort to
6 interpolate into the NVRA a preemptive ban on documentary proof of citizenship mandates.

7 *1. The Supreme Court Expressly Recognized Arizona’s (and the EAC’s)
8 Authority to Adopt Proof of Citizenship Requirements*

9 In 2004, the Arizona electorate approved a statutory measure that required county
10 recorders—the local officials who are responsible under Arizona law for registering voters and
11 maintaining the rolls—to “reject any application for registration that is not accompanied by
12 satisfactory evidence of United States citizenship.” Ariz. Rev. Stat. § 16-166(F). The statute did
13 not differentiate between Federal Form and State Form submissions—an attribute that proved
14 central to the U.S. Supreme Court’s consideration of the law nine years later. After dissecting the
15 controlling provisions, the Supreme Court concluded that the NVRA “precludes Arizona from
16 requiring a Federal Form applicant to submit information beyond that required by the form itself.”
17 *ICTA*, 570 U.S. at 20.

18 Plaintiffs’ inferential leap that the NVRA affirmatively prohibits *anyone* (including the
19 EAC) from imposing a proof of citizenship requirement through *any* mechanism, however, trips
20 on two critical qualifiers cabining *ICTA*’s holding. First, the Court emphasized that the NVRA
21 allows Arizona to request that “the EAC alter the Federal Form to include information the State
22 deems necessary to determine eligibility,” *id.* at 19, and held open the possibility that the EAC
23 may even have “a nondiscretionary duty to include Arizona’s concrete evidence [of citizenship]
24 requirement on the Federal Form.” *Id.* at 20. Second, the Court explained that Arizona could
25 incorporate a documentary proof of citizenship field into its own State Form, noting that “state-
26 developed forms may require information the Federal Form does not.” *Id.* at 12; *accord Gonzales*
27 *v. Arizona*, 485 F.3d 1041, 1050-51 (9th Cir. 2007) (finding that Section 9(b) of the NVRA “plainly

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Seattle, WA 98104
Tel/Fax: 253-267-8530

1 allow[s] states, at least to some extent, to require their citizens to present evidence of citizenship
 2 when registering to vote”).
 3

4 Plaintiffs’ position is irreconcilable with *ICTA*. Their declaration that “the NVRA
 5 prohibits the Federal Form from categorically requiring DPOC” [Doc. 37 at 11] collides with the
 6 Supreme Court’s admonition that the NVRA actually permits—and may indeed require—the EAC
 7 to accede to States’ demands for a proof of citizenship component on the Federal Form. *See ICTA*,
 8 570 U.S. at 19-20. Further, as noted above, Section 9(b)’s ‘necessity’ criterion governs both the
 9 Federal Form **and** any State Form that is used to register voters in federal elections. Far from
 10 ratifying Plaintiffs’ theory that Section 9(b) precludes a documentary proof of citizenship element,
 11 the Supreme Court expressly cited Arizona’s mandate as an “example” of how, pursuant to Section
 12 9(b), “state-developed forms may require information the Federal Form does not.” *Id.* at 12. In
 13 other words, *ICTA* held only that States cannot unilaterally append their own bespoke mandates to
 14 the Federal Form. But it recognized the EAC’s and the States’ respective powers under Section
 15 9(b) to incorporate documentary proof of citizenship requirements into the Federal Form and
 16 individual State Forms.
 17

18 The Supreme Court in *ICTA* pointedly left open the door to documentary proof of
 19 citizenship requirements in the Federal Form and individual State Forms; the Plaintiffs cannot here
 20 peremptorily close it.
 21

22 2. *The Tenth and D.C. Circuits Have Reaffirmed EAC’s Statutory Authority to*
 23 *Require Documentary Proof of Citizenship*

24 Subsequent lower court cases, of course, could not and did not derogate *ICTA*’s recognition
 25 that proof of citizenship mandates can be consistent with the NVRA. Plaintiffs cite *Kobach v.*
 26 *United States Election Assistance Commission*, 772 F.3d 1183 (10th Cir. 2014), and *League of*
Women Voters of the United States v. Newby, 838 F.3d 1 (D.C. Cir. 2016), to prop-up their theory
 27 that Section 9(b) forbids proof of citizenship requirements. Neither court, though, said any such
 thing.

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1 Heeding the Supreme Court’s invitation in *ICTA*, Arizona and Kansas petitioned the EAC
 2 to incorporate proof of citizenship requirements into their state-specific instructions on the Federal
 3 Form. The EAC denied the request. *See Kobach*, 772 F.3d at 1187-88. Declining to disturb the
 4 EAC’s decision, the court emphasized that the “standard of review is ‘very deferential’ to the
 5 agency’s determination, and a presumption of validity attaches to the agency action such that the
 6 burden of proof rests with the party challenging it.” *Id.* at 1197 (internal citation omitted). In other
 7 words, *Kobach* concluded only that “the NVRA does not impose a ministerial duty on the EAC to
 8 approve state requests to change the Federal Form.” *Id.* at 1199. It never—and, in light of *ICTA*
 9 could not have—held that the NVRA precludes the EAC from approving a proof of citizenship
 10 requirement.

11 *Newby* presented a different variant of the same narrow procedural point. There, the EAC’s
 12 staff had approved several States’ request for state-specific instructions on the Federal Form
 13 concerning documentary proof of citizenship requirements. *See* 838 F.3d at 4. The court held that
 14 the EAC had acted improperly because it “never made the necessity finding required by [Section
 15 9(b)].” *Id.* at 12. Crucially, however, the court emphasized that its ruling did **not** “forbid the
 16 Commission from including a proof-of-citizenship requirement if it determined that such a
 17 requirement was necessary” pursuant to Section 9(b). *Id.* at 11 (citation omitted).

18 In short, *Kobach* and *Newby* collectively hold that the EAC (1) is not required to reflexively
 19 acquiesce to States’ demands for proof of citizenship provisions, but (2) is statutorily authorized
 20 to adopt proof of citizenship requirements upon finding that such a policy comports with Section
 21 9(b).

22 3. *The Supreme Court Has Again Signaled Its Agreement That NVRA Section*
 23 *9(b) Authorizes Proof of Citizenship Requirements*

24 The U.S. Supreme Court indicated last year that it is poised to again affirm that
 25 documentary proof of citizenship is (or at least can be) “necessary to enable the appropriate State
 26 election official to assess the eligibility of the applicant and to administer voter registration and

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1 other parts of the election process,” 52 U.S.C. § 20508(b)(1), and hence eligible for inclusion on
 2 State Forms (and, by extension, the Federal Form). In 2022, the Arizona Legislature strengthened
 3 Arizona’s proof of citizenship requirement by (among other things) mandating that county
 4 recorders must “reject” any State Form application “that is not accompanied by satisfactory
 5 evidence of citizenship.” Ariz. Rev. Stat. § 16-121.01(C), as amended by 2022 Ariz. Laws ch. 99,
 6 § 4. Various plaintiff groups challenged this provision, arguing that the NVRA (as well as a 2018
 7 consent decree approved by the Arizona Secretary of State) required the county recorders to accept
 8 State Form submissions lacking proof of citizenship and to register these applicants as “federal
 9 only” voters.³ The district court sided with the plaintiffs and enjoined Ariz. Rev. Stat. § 16-
 10 121.01(C)’s implementation. *See Mi Familia Vota v. Fontes*, 691 F. Supp. 3d 1077, 1096 & n.13
 11 (D. Ariz. 2023). After a motions panel of the Ninth Circuit unanimously stayed this facet of the
 12 district court’s injunction, *see* 2024 WL 3629418 (9th Cir. Jul. 18, 2024), another panel intervened
 13 and, on a 2-1 vote, vacated the stay, *see* 111 F.4th 976 (9th Cir. Aug. 1, 2024). The appellants
 14 then sought and received from the U.S. Supreme Court a stay of the district court’s injunction
 15 against enforcement of Ariz. Rev. Stat. § 16-121.01(C). *See Republican Nat'l Comm. v. Mi*
 16 *Familia Vota*, 145 S. Ct. 108 (Mem.) (2024).⁴

17 The *Mi Familia Vota* saga may be procedurally convoluted, but the Supreme Court’s
 18 intimations are clear. In staying the district court’s injunction of Ariz. Rev. Stat. § 16-121.01(C),
 19

20 ³ Following ICTA, Arizona has maintained bifurcated voter registration rolls. Registrants whose
 21 citizenship status has not been verified (other than individuals who registered to vote prior to the
 22 2004 law’s effective date) have a “federal only” designation and are issued ballots that contain
 23 only races for federal offices. *See* Ariz. Atty. Gen. Op. I13-011, 2013 WL 5676943 (Oct. 7, 2013).

24 ⁴ Refusing to “take[] the hint” and “ignoring the Supreme Court’s direction,” *Mi Familia Vota v.*
Fontes, 129 F.4th 691, 733, 745 (9th Cir. 2025) (“*Mi Familia Vota II*”) (Bumatay, J., dissenting),
 25 the same panel later affirmed the district court’s injunction, *see id.* at 718-20. A petition for en
 26 banc review is pending. *See* Intervenors’ Petition for Rehearing En Banc, *Mi Familia Vota v.*
Fontes, No. 24-3188 (9th Cir. Apr. 11, 2025).

1 the Court implicitly but necessarily conveyed that there likely is “no basis to overrule Arizona’s
 2 determination that documentary proof of citizenship is ‘necessary to enable [its] election official[s]
 3 to assess the eligibility of the applicant.’” *Mi Familia Vota II*, 129 F.4th at 749 (Bumatay, J.,
 4 dissenting) (quoting NVRA Section 9(b), 52 U.S.C. § 20508(b)(1)); *see also Nken v. Holder*, 556
 5 U.S. 418, 434 (2009) (Supreme Court will grant a stay only if, *inter alia*, the “applicant has made
 6 a strong showing that he is likely to succeed on the merits”). An inevitable corollary is that Section
 7 9(b)—which also regulates the content of the Federal Form—likewise empowers the EAC to
 8 assimilate a documentary proof of citizenship element into the Federal Form.

9 **C. The Court Need Not and Should Not Preemptively Ban the EAC From
 10 Considering and Adopting a Documentary Proof of Citizenship Requirement**

11 To sum up, two decades of litigation emanating out of Arizona’s seminal documentary
 12 proof of citizenship law imparts five key points that should inform this Court’s evaluation of the
 13 Plaintiffs’ claims.

14 *First*, Section 9(b) authorizes the EAC and state legislatures to integrate into the Federal
 15 Form or particular State Forms, respectively, the disclosure of information “necessary to enable
 16 the appropriate State election official to assess the eligibility of the applicant and to administer
 17 voter registration and other parts of the election process.” 52 U.S.C. § 20508(b)(1).

18 *Second*, the Supreme Court has cited Arizona’s documentary proof of citizenship law as
 19 an “example” of the how Section 9(b) can be applied to permissibly augment and update voter
 20 registration forms. *See ICTA*, 570 U.S. at 12.

21 *Third*, while the EAC may not reflexively kowtow to States’ demands for modifications to
 22 the Federal Form, it retains statutory authority to add elements to the Federal Form, including
 23 corroboration of citizenship, upon determining that they comport with Section 9(b). *See ICTA*,
 24 570 U.S. at 19-20; *Newby*, 838 F.3d at 11-12; *Kobach*, 772 F.3d at 1197.

25 *Fourth*, courts historically have construed Section 9(b)’s “necessity” criterion liberally. If
 26 elections officials actually use the mandated item of information to verify applicants’ eligibility

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 600 1st Ave. Ste. 330 PMB 86685
 Seattle, WA 98104
 Tel/Fax: 253-267-8530

1 and administer the voter registration process, the NVRA countenances its inclusion on the
 2 registration form. *See, e.g., Gonzalez*, 485 F.3d at 1050-51; *Am. Ass'n. of People with Disabilities*
 3 v. *Herrera*, 580 F. Supp. 2d 1195, 1243 (D.N.M. 2008) (holding that inclusion on state registration
 4 form of mandatory field for the ID number of third-party voter registration agents satisfied Section
 5 9 because “the state uses the numbers to prevent voter registration fraud”); *League of Women*
 6 *Voters of Fla. v. Browning*, 863 F. Supp. 2d 1155, 1166 (N.D. Fla. 2012) (observing that
 7 “identifying the organization that submits an application is sufficiently ‘necessary’ to the sound
 8 administration of the voter-registration process to pass muster” under Section 9).

9 *Fifth*, the U.S. Supreme Court’s recent stay order in the *Mi Familia Vota* litigation evinces
 10 its likely agreement that Section 9(b) authorizes the inclusion of documentary proof of citizenship
 11 requirements in forms that are used to register voters in federal elections. *See Republican Nat'l.*
 12 *Comm.*, 145 S. Ct. 108; *Mi Familia Vota II*, 129 F.4th at 745 (Bumatay J., dissenting) (noting the
 13 significance of the stay order); *see also generally CASA de Maryland, Inc. v. Trump*, 971 F.3d 220,
 14 230 (4th Cir. 2020) (“[E]very maxim of prudence suggests that we should decline to take the
 15 aggressive step of” issuing a ruling contrary to a Supreme Court stay order), *reh'g en banc granted*
 16 981 F.3d 311 (4th Cir. 2020).

17 Accordingly, the Plaintiffs’ position that the NVRA preemptively and categorically
 18 immunizes the Federal Form from the inclusion of a documentary proof of citizenship facet—
 19 regardless of who makes the policy determination or the reasons for doing so—dissipates under
 20 the collective weight of the NVRA’s plain text, the Supreme Court’s explication of it in *ICTA*, and
 21 circuit court precedents. At the very least, this Court should defer any adjudication of whether a
 22 new proof of citizenship element in the Federal Form complies with Section 9(b) until such time
 23 as the EAC (acting pursuant to the Executive Order or otherwise) actually adopts the concept in a
 24 final agency action. Two other federal courts evaluating the Executive Order already have
 25 declined to endorse the same misguided construction of the NVRA that the Plaintiffs advance here.
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1 See *California v. Trump*, -- F. Supp. 3d --, 2025 WL 1667949, at *8 n.6 (D. Mass. Jun. 13, 2025);
 2 *League of United Latin Am. Citizens v. Exec. Office of the President*, -- F. Supp. 3d --, 2025 WL
 3 1187730, at *38 (D.D.C. Apr. 24, 2025). This Court should follow suit.
 4

5 **II. Executive Order Section 2(d) Implements and Is Consistent with Congress' Express**
Objective of Limiting Voter Registration to Only U.S. Citizens

6 Far from being “incompatible with the expressed or implied will of Congress,” *Zivotofsky*
 7 *ex rel. Zivotofsky v. Kerry*, 576 U.S. 1, 10 (2015) (quoting *Youngstown Sheet & Tube Co. v.*
 8 *Sawyer*, 343 U.S. 579, 637 (1952) (Jackson, J., concurring) (outlining when presidential power is
 9 “at its lowest ebb”)), Section 2(d) of the Executive Order—which directs **federal** voter registration
 10 agencies to “assess citizenship prior to providing a Federal voter registration form to enrollees of
 11 public assistance programs”—effectuates the NVRA’s purposes of confining voter registration
 12 opportunities only to United States citizens and “protect[ing] the integrity of the electoral process.”
 13 52 U.S.C. § 20501(b)(3).

14 Preliminarily, Section 2(d) of the Executive Order necessarily does not implicate any
 15 aspect of state sovereignty. This provision is directed to “**Federal** voter registration executive
 16 department[s] or agenc[ies]” (emphasis added). Plaintiffs’ apparent supposition [Doc. 1, ¶¶
 17 157-158] that the directive extends to state and local agencies finds no warrant in the Executive
 18 Order’s text. And the semantically sensible interpretation of Section 2(d) as limited only to
 19 agencies of the federal government is buttressed by the Court’s duty to, when possible, construe
 20 laws “to avoid constitutional problems.” *Harvey v. Brewer*, 605 F.3d 1067, 1078 (9th Cir.
 21 2010). Most if not all the federal departments affected by the Executive Order are situated
 22 entirely in the Executive Branch, and thus subject to the President’s oversight. *See generally*
 23 *Seila Law LLC v. Consumer Fin. Protection Bureau*, 591 U.S. 197, 224 (2020) (explaining that
 24 “individual executive officials will still wield significant authority, but that authority remains
 25 subject to the ongoing supervision and control of the elected President”).

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More broadly, federal elections are solely and entirely a creature of the U.S. Constitution; the States never possessed any antecedent “sovereignty” in this domain that the Constitution could or did preserve. *See U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 802 (1995) (“[T]he power to add qualifications [for federal offices] is not part of the original powers of sovereignty that the Tenth Amendment reserved to the States”). Directing federal voter registration agencies to vindicate the NVRA’s express prohibition against the registration of non-citizens does not unconstitutionally abridge any attribute of state sovereignty. *See Ass’n. of Cnty. Orgs. for Reform Now v. Miller*, 129 F.3d 833, 836 (6th Cir. 1997) (rejecting claim that the NVRA “is unconstitutional because it conscripts state agencies, personnel, and funds to further a federal purpose”).

On the merits, Section 2(d) is fully consonant with the NVRA. Federal agencies that provide public assistance and other offices designated by the state must “distribute” to public assistance applicants the Federal Form or its State Form equivalent. *See* 52 U.S.C. § 20506(a)(6)(A). Nothing in the Executive Order abrogates or contradicts that policy command. In adding only that voter registration agencies must attempt to screen out non-citizens from this registration solicitation, the Executive Order aligns and synthesizes this provision with the NVRA’s self-declared goals of registering only “eligible citizens” and “protect[ing] the integrity of the electoral process.” 52 U.S.C. § 20501(b)(2), (3);⁵ *see also* S. Rep. 103-6 (1993) (explaining that the NVRA’s agency registration provision was intended to “enable[] more low income and minority **citizens** to become registered” (emphasis added)). Because individuals who are not U.S. citizens are ineligible to “register[] to vote in the first place,” they necessarily are outside the ambit of the NVRA’s intended beneficiaries. *See Bell v. Marinko*, 367 F.3d 588, 591-92 (6th Cir. 2004)

⁵ In delineating the NVRA’s purposes, Congress employed the word “citizens” three times to denote the law’s scope. *See* 52 U.S.C. § 20501.

1 (explaining that NVRA's voter list maintenance restrictions "protect[] only 'eligible' voters from
 2 unauthorized removal").

3 Finally, it bears noting that federal law prohibits non-citizens from voting in federal
 4 elections, *see* 18 U.S.C. § 611, and there are numerous other federal statutes that aim to prevent
 5 non-citizens from registering to vote. *See* 18 U.S.C. § 1015(f) (a crime to make a false claim of
 6 citizenship to register or vote in any election); 52 U.S.C. § 20511(a)(2) (a crime to knowingly and
 7 willfully procure a materially false or fraudulent voter registration application); and 18 U.S.C. §
 8 911 (illegal to knowingly and willfully make a false assertion of U.S. citizenship). A rigid reading
 9 of the NVRA that requires registration agencies to blindly offer registration applications to non-
 10 citizens, especially when agency officials will frequently have information at their disposal that
 11 indicate a would-be applicant's non-citizenship status, is at odds with numerous federal laws that
 12 prohibit non-citizen registration, protect non-citizens from being solicited to register to vote, and
 13 place those who offer registration applications to known non-citizens in potential legal jeopardy.
 14 It would also be inconsistent with Congress' stated purpose of registering only "citizens" to vote
 15 and protecting election integrity.

16 CONCLUSION

17 For the foregoing reasons, the Court should find that (1) the NVRA permits the EAC to
 18 include a documentary proof of citizenship field on the Federal Form, and (2) Plaintiffs lack
 19 standing to challenge Section 2(d) of the Executive Order, or, if they do, that Section 2(d) validly
 20 interprets and implements the NVRA.

21 Respectfully submitted this 21st day of July, 2025.

22 STATECRAFT PLLC

23 By: s/ Thomas Basile

24 Thomas Basile (*pro hac vice* forthcoming)
 25 E-mail: tom@statecraftlaw.com

26 649 North Fourth Avenue, First Floor

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ROBERT MCGUIRE LAW FIRM
 600 1st Ave. Ste. 330 PMB 86685
 Seattle, WA 98104
 Tel/Fax: 253-267-8530

1 Phoenix, AZ 85003
2 Telephone: (602) 362-0036

3 *Lead Counsel for Amici Curiae REPUBLICAN*
4 *PARTY OF ARIZONA and RITE PAC*

5 **ROBERT MC GUIRE LAW FIRM**

6 By: s/ Robert A. McGuire, III
7 Robert A. McGuire, III, WSBA #50649

8 600 1st Ave. Ste. 330 PMB 86685
9 Seattle, WA 98104
10 Tel/Fax: (253) 267-8530
E-mail: ram@lawram.com

11 *W.D. Wa. Local Counsel for Amici Curiae*
12 *REPUBLICAN PARTY OF ARIZONA and RITE*
13 *PAC*

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically with the Clerk of the Court using the CM/ECF system on July 21, 2025, and was served via the Court's CM/ECF system on all counsel of record:

DATED: July 21, 2025

/s/ Robert A. McGuire, III
Robert A. McGuire, III, WSBA #50649

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